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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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OFFICE OF PETITIONS

APPLICANTS: Johnston et al.

SERIAL NO.: 09/768,115

GROUP ART UNIT: 1724

FILED: January 23, 2001

EXAMINER: Barry

FOR: MICROBIOLOGICAL WATER FILTER

ATTORNEY DOCKET NO.: 38830/253270

I hereby certify that this correspondence is being deposited with the United States Postal Service as certified first class mail in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on August 13, 2003

Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

DATE: August 13, 2003

PETITION UNDER 37 C.F.R. § 1.182

Sir:

This is a petition to grant Applicants a filing date of January 23, 2001.

STATEMENT OF FACTS

This application is a continuation of U.S. Serial No. 09/382,278. It was mailed to the U.S. PTO by Express Mail (Label No. EL670010010US) on January 23, 2001, using certificate of mailing procedures in accordance with 37 C.F.R. § 1.10. The transmittal letter accompanying this filing was that suggested by the U.S. PTO, and included the statement "Incorporation by Reference . . . The entire disclosure of the prior application, which a copy of the oath or declaration is supplied under Box 3b, is

considered as being part of the disclosure of the accompanying application and is hereby incorporated by reference therein.”

On May 15, 2001, the U.S. PTO mailed a “Notice of Incomplete Nonprovisional Application” indicating that the application was deposited without drawings, and advising Applicant to reconsider whether drawings are necessary under 35 U.S.C. § 113.

Applicants responded to this Notice within the extended statutory period for response by providing the PTO with copies of the allegedly missing drawings.

On April 23, 2003, the PTO issued an Office action, listing a filing date for this application as January 22, 2003. On May 28, 2003, Applicants requested that this filing date be corrected to January 23, 2001. On June 16, 2003, the PTO issued a “Response to Request for Corrected Filing Receipt,” which stated that “the filing date accorded the application is the date the application met the filing date requirements of 37 C.F.R. § 1.53(b) or (c).”

STATEMENT OF POINTS TO BE REVIEWED AND ACTION REQUESTED

Because the same drawings were included in the parent application, and were thus incorporated by reference into the continuation application by virtue of the statement on the transmittal letter mentioned above, even if the drawings were inadvertently omitted from the copy of the application deposited on January 23, 2001, that application was not incomplete. Accordingly, the application was complete as filed, and should never have been accorded a filing date later than January 23, 2001.

Applicants respectfully request that their request for a corrected filing date be granted, that this application be accorded a filing date of January 23, 2001, and that the records of the PTO be updated to reflect this change.

A fee of \$130.00 is included with this Petition. The Commissioner is hereby authorized to charge any deficiencies or credit any overpayment to Deposit Order Account No. 11-0855.

Respectfully submitted,



Bruce D. Gray
Reg. No. 35, 799

KILPATRICK STOCKTON LLP
Suite 2800, 1100 Peachtree Street
Atlanta, Georgia 30309-4530
(404) 815-6218